

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 347 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CC KHIRA

Versus

STATE OF GUJARAT

Appearance:

MR MANOJ N POPAT for Petitioner

MR HASMUKH PATEL ADVOCATES for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/05/99

ORAL JUDGEMENT

#. Rule. Mr.Hasmukh Patel waives service of rule on behalf of respondents.

#. During the course of arguments the learned counsel for the petitioner submits that though the petitioner prays in this special civil application for quashing and setting aside of the order of the respondent under which

the petitioner was placed under suspension, however, he submits that this court may give direction to the respondent to conclude the departmental inquiry finally within the reasonable time. The next prayer is made that the respondent may be directed to give suspension allowance to the petitioner.

#. The learned counsel for the respondent agreeable that the departmental inquiry has to be completed expeditiously and he has no objection in case this court gives out the time bound programme for the finalisation thereof. So far as the grievance of the petitioner regarding nonpayment of the suspension allowance is concerned, the counsel for the respondent submits that he will see that he gets the arrears of the suspension allowance and regular suspension allowance.

#. Having given my thoughtful consideration to the submissions made by the learned counsel for the parties, I am satisfied that the departmental inquiry initiated against a delinquent officer or employee has to be completed within a reasonable time and more so where the disciplinary authority considered it to be a fit case where the delinquent officer or employee has to be put under suspension pending the departmental inquiry. It is not fair, reasonable and in consonance with the fair play to continue a delinquent officer or employee under suspension for indefinite period pending departmental enquiry. Not to complete the departmental inquiry within a reasonable time is neither in the interest of delinquent officer or employee nor in the larger interest of the state. If the officer or employee has committed serious misconduct then it should have been the duty of the disciplinary authority to see that expeditiously he should have been adequately punished. In a case where ultimately continuation of such employee or officer, who has to be punished under suspension gives a gift to him and that too from the public exchequer. Though otherwise he would not have been entitled for a single penny but he will get the suspension allowance, which is normally may be a substantial amount. This could have been utilised for other good public cause. From the point of view of the delinquent officer or employee, if he is innocent why he should be allowed to undergo this agony and suffering and to live in the society with a degraded reputation for long time.

#. Taking into consideration the totality of the facts of this case the respondents are directed to complete the inquiry initiated against the petitioner within a period of 9 months from the date of the receipt of the writ of

this order. However, it is expected of the petitioner to extend his fullest cooperation to the disciplinary authority. It is made clear that the inquiry officer and disciplinary authority has to proceed with the matter in accordance with the time bound schedule where without any reasonable cause the delinquent officer or employee does not participate in the inquiry. They are at liberty to proceed ex parte against him in such case. So far as the suspension allowance is concerned if the respondents have decided to place the petitioner under suspension in contemplation of departmental inquiry they owe a legal obligation to pay subsistence allowance, if the petitioner has not been paid the same so far. The respondents are directed to pay the same if it is not so far been paid and continue to pay the same to him till the departmental inquiry initiated against is finally decided either in his exoneration or imposing penalty on him.

#. The special civil application and rule stand disposed of accordingly. No order as to costs.

(S.K.Keshote, J.)

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